



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): February 5, 2021

ORM Number: MVP-2020-02433-EJW

Associated JDs: N/A

Review Area Location¹:

State/Territory: MN **City:** Saint Louis Park **County/Parish/Borough:** Hennepin County

Center Coordinates of Review Area: Latitude 44.94071 Longitude -93.340598

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A	N/A	N/A	N/A

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A	N/A

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 2	0.15 acres	(b)(1) Non-adjacent wetland	The nearest potential (a)(1)-(a)(3) water, Lake Bke Maka Ska, is located 0.96 miles east of the AJD review area. The 2020 delineation report and an aerial review of the surrounding area showed that Wetlands 2 & 3 have no hydrological surface connection to any waters of the US (WOUS). Wetlands 2 & 3 do not abut a TNW or a lake, pond, tributary, or impoundment of a jurisdictional water. Wetlands 2 & 3 do not meet the definition of adjacent wetlands under the NWPR and are not jurisdictional waters of the US.
Wetland 3	0.01 acres	(b)(1) Non-adjacent wetland	
Wetland 1	0.02 acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6)	According to the 2020 delineation report, Wetland 1 was excavated in upland for the purpose of stormwater retention. Appendix F, Figure 1 from the delineation contains a figure planning the retention from the MCWD permit issued. According to the NWPR rule, Wetland 1 meets the (b)(8) exclusion and is not a jurisdictional WOUS.

III. SUPPORTING INFORMATION

X Information submitted by, or on behalf of, the applicant/consultant: OPUS Development Company, L.L.C. 3440/3510 Beltline Blvd. Wetland Investigation by Anderson Engineering (November 23, 2020)

This information (is and is not) sufficient for purposes of this AJD.

Rationale: Further review of offsite aerial imagery was needed to investigate if a surface water connection existed between Wetlands 2 & 3 and any WOUS.

___ Data sheets prepared by the Corps: *Title(s) and/or date(s)*.

X Photographs: (aerial) Google Earth 1991-2020

___ Corps Site visit(s) conducted on: *Date(s)*.

___ Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.

___ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.

___ USDA NRCS Soil Survey: *Title(s) and/or date(s)*.

___ USFWS NWI maps: *Title(s) and/or date(s)*.

___ USGS topographic maps: *Title(s) and/or date(s)*.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.

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Other Sources	N/A.
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- A. Typical year assessment(s):** N/A
- B. Additional comments to support AJD:** N/A

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